IN THE HIGH COURT OF PUNJAB & HARYANA CHANDIGARH

Criminal Revision No.1583 OF 2007
Date of Decision: October 10, 2007

LAKHVINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr. Chanan Singh, Advocate,
for the petitioner

Mr. Satish Bhanot, Sr. DAG, Punjab.

A.N.JINDAL, J

Assailed in this petition is the judgment dated 22.07.1993 passed by Addl. Sessions Judge, Amritsar dismissing the appeal of the petitioner against the judgment dated 11.10.1990 passed by Judicial Magistrate 1st Class Patti, who while upholding the conviction and sentence under section 279 IPC reduced the sentence to 1 year under Section 304A IPC.

The case was registered on the basis of statement Ex. PB made by Jarnail Singh(PW2) before the police wherein he stated that on 09.03.1988 at about 1.30 PM, he and his brother Kulwant Singh deceased and Patwant Singh(PW3) were proceeding from Tarn Taran to patti on two scooters in connection with their business. Kulwant Singh deceased was

driving scooter No. PCC 6065 while Jarnail Singh complainant(PW2) and Patwant Singh(PW3) were following him on a different scooter No. PJU 161. At about 2 PM when they reached the pacca road slightly behind the poultry farm in the area of patti, a truck bearing registration No. PAT 1757 being driven by accused Sucha Singh in a rash and negligent manner came from the opposite side. Owing to rash and negligent driving on the part of the truck driver, the right side of the truck hit the scooter of Kulwant Singh deceased. Resultantly, Kulwant Singh deceased got entangled in the truck and his scooter was dragged along with the truck by nearly 15 to 16 karams. Kulwant Singh fell down from the scooter. Accused Sucha Singh then got down from his truck and separated the scooter of Kulwant Singh deceased from the truck and fled away from the spot alongwith his truck. Kulwant Singh, succumbed to the injuries. On the basis of the aforesaid statement Ex. PB of Jarnail Singh(PW2) formal FIR No. 33 of 1988(Ex.PW 7/A) under Section 304 A IPC was registered against the accused at the police station, Patti. Consequently, ASI Lal Chand (PW7) handled the investigation. He visited the spot; prepared the rough site plan Ex. PW7/B of the place of occurrence; lifted some blood stained earth from the spot. The scooter of Kulwant Singh deceased bearing registration No. PCC 6065 was taken into possession vide seizure memo Ex. PE; some broken pieces of glass were lifted and the accidental truck No. PAT 1757 was also seized by the police

on the same day vide seizure memo Ex. PF.

Conviction recorded by both the Courts below have not been assailed by the counsel for the petitioner. Even otherwise, on examination of the records of the case, it transpires that complainant Jarnail Singh has consistently picturised factual scenario leading to the occurrence and his testimony has been corroborated by the medical evidence. No plausible defence has been led by the accused, consequently, the judgment of conviction is maintained.

Regarding the other contention of extending some leniency in the quantum of sentence it would be appropriate to observe that occurrence took place as far back as in the year 1988. The trial was completed on 11.10.1990 and he had also to face lot of agony during the pendency of the present proceedings. The accused is a first offender. The learned AAG Haryana has not brought forward any bad antecedents of the petitioner, to prove that he ever committed such crime after the present incident. Consequently, ends of justice would be met if the petitioner is extended benefit of probation under the Probation of Offenders Act 1958, however, adequate compensation could be granted to the legal heirs of the deceased.

For the foregoing reasons the present petition is hereby dismissed with the modification in the sentence and he is ordered to be released on probation under Section4(1) of the Probation of Offenders Act, 1958 on his executing a bond in the sum of Rs.5000/- with one surety in the like amount to

the satisfaction of the trial Court for a period of one year within which period he shall continue to be of good behaviour and keep peace and in case of breach of conditions of the bond he will be ready to serve sentence as and when called for.

However, he is directed to pay a sum of Rs. 25,000/- within 3 months from today on account of compensation which will be shared by the LRs of the deceased equally failing which the impugned judgment shall remain intact.

(A.N.JINDAL)
JUDGE

September 24, 2007
Ruchika

To be referred to reporter: Yes/No